

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
BIG STONE GAP DIVISION**

For the reasons stated in the Opinion accompanying this Judgment, it is

**ADJUDGED, ORDERED and DECREED as followed:**

1. The objections to the Report and Recommendation of the magistrate judge are OVERRULED and the Report and Recommendation is ACCEPTED with minor modifications as stated in the Opinion;
2. The plaintiff's and the defendants' motions for summary judgment are GRANTED in part and DENIED in part;
3. The offset of the plaintiff's Plan benefits by his union benefits due upon normal retirement is valid;
4. The Plan must not recoup past overpayments to the plaintiff;
5. The Plan must pay to the plaintiff all amounts previously recouped, together with interest at the current Virginia judgment

rate from the date of each such recoupment until the date of this Judgment, and thereafter on both principal and prejudgment interest at the federal judgment rate until paid;

6. Attorneys' fees to the parties are denied; and
7. The clerk shall close the case.

ENTER: July 13, 2009

/s/ JAMES P. JONES  
Chief United States District Judge